IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SECOND APPEAL No. 59 of 1993

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT & 2 - Appellant(s)
Versus
SHAHBUDDIN JAMALBHAI THARANI AND COMPANY - Defendant(s)

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Appearance :
GOVERNMENT PLEADER for Appellant(s) : 1, 3,MR DIPAK A THAKER for Appellant(s) : 2,
MR SURESH M SHAH for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 14/03/2007

ORAL JUDGMENT

1. This Second Appeal has been filed by the State of Gujarat and others against the judgment and decree passed by the learned first appellate court.

2. It is to be seen that the appellant No.1 is described as State of Gujarat (through the Union of India). In am unable to understand the description of the State of Gujarat or the description of Union of India. Under the law and Constitution of India, State and Union are different entity and one cannot appear through other.

3. In the present matter, certain recovery was required to be made for and on behalf of the Union of India, the matter was referred to the Recovery Officer and ultimately, the matter came before the Civil Court, the Civil Court had decreed the suit in favour of the respondent – plaintiff. The appellants are in no way interested in money which is to be recovered but they are only the authorities who have to recover the money. A Recovery Tribunal would have no authority to challenge the order of the Civil Court, because, a Tribunal cannot be allowed to challenge the order.

4. Even otherwise, the Union of India which would be beneficiary, has not been joined as party appellant or party respondent. The name of Union of India is only

shown under the description of the appellant No.1. As the appellants have no locus to file the appeal, the appeal is dismissed. Interim relief, if any, is vacated. No costs.

(R.S. GARG, J.)

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